

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

ELIZABETH A. LITTLE)
)
v.) NO. 3-12-0689
) JUDGE CAMPBELL
ELLIS MOVING AND STORAGE, LLC)

MEMORANDUM

Pending before the Court is Defendant's Motion to Dismiss Three Counts in Plaintiff's Complaint (Docket No. 10). For the reasons stated herein, Defendant's Motion is GRANTED in part and DENIED in part.

FACTS

Plaintiff has sued her former employer, Defendant Ellis Moving and Storage, LLC, for employment discrimination in violation of the Age Discrimination in Employment Act ("ADEA"), Title VII, the Tennessee Human Rights Act ("THRA") and Tennessee state law for common law retaliation.

Defendant asks the Court to dismiss Plaintiff's Title VII claim for failure to receive a "right-to-sue" letter from the EEOC and to dismiss Plaintiff's state law claims as time-barred. Plaintiff, in response, concedes that her Title VII claim should be dismissed, but not for the reason Defendant argues. Plaintiff concedes her Title VII claim because the EEOC has found that Defendant has less than 15 employees and, therefore, no jurisdiction exists, pursuant to 42 U.S.C. § 2000e(b).

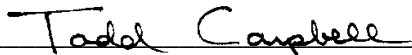
DISCUSSION

Given Plaintiff's concession, Defendant's Motion to Dismiss Plaintiff's Title VII claim is granted, and that claim is dismissed. With regard to Plaintiff's state law claims, the statute of

limitations began to run the day Plaintiff was discharged, July 8, 2011. One year later was July 8, 2012. July 8, 2012, was a Sunday, however, so Plaintiff was entitled to file her Complaint on Monday, July 9, 2012, pursuant to Fed. R. Civ. P. 6(a)(3)(A). Therefore, Defendant's Motion to Dismiss Plaintiff's state law claims is denied.

Finally, the parties shall file briefs, by September 28, 2012, as to whether Plaintiff's ADEA claim should be dismissed for lack of jurisdiction in light of the required number of employees pursuant to 29 U.S.C. § 630(b).

IT IS SO ORDERED.



TODD J. CAMPBELL
UNITED STATES DISTRICT JUDGE